IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 11396 of 2004

Between:

S. Nagesam, S/o. Kesanna,
R/o. Dharmavaram, Anantapur District.

..... PETITIONER

AND

1 The State of AP., rep. by its Secretary,
Municipal Administration Department, Secretariat Buildings, Hyderabad.
2 The Commissioner and Director of Municipal Administration, AC Guards, Hyderabad.
3 The Commissioner, Dharmavarm, Municipality, Ananthapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one the nature of Writ of Mandamus calling for the records relating to the orders passed by the AP Administrative Tribunal in OA.No. 4557/2000 dt. 3-2-2004 and declare the same as illegal, arbitrary and violative of the principles of natural justice and further direct the respondents to consider the case of the petitioner for appointment in terms of GO.Ms.No. 263, MA dt. 31.3.1981

Counsel for the Petitioner: MR.P.RAGHAVENDRA REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR SERVICES-I

Counsel for the Respondent No.3: Mr. K.MAHENDER REDDY, Standing Counsel for Municipalities.

The Court at the stage of admission made the following:

ORAL ORDER: (By GB.J.)

The Writ Petition is filed assailing the order passed by A.P. Administrative Tribunal (for short Tribunal) in OA.No.4557 of 2000, dated 3.2.2004.

2. The petitioner is the son of an employee working in Dharmavaram Municipality as a Sweeper. He was appointed on 1.9.1965 and retired from service on 30.6.1994. Thereafter the petitioner made an application on 14.7.1994 for consideration of his case for appointment in terms of G.O.Ms.No.263, Housing, Municipal Administration and Urban Development Department, dated 31.3.1981. Since the same was not disposed of, he filed the above OA. However, the learned Tribunal dismissed the said OA. Against which the present Writ Petition has been filed.

3. The learned counsel for the petitioner submits that though the Government by issuing G.O.Ms.No.543, Municipal Administration and Urban Development Department, dated 7.10.1994, withdrew G.O.Ms.No.263, dated 31.3.1981, the latter G.O.Ms.No.543 has no retrospective effect and therefore the case of the petitioner has to be considered in accordance with G.O.Ms.No.263, dated 31.3.1981 as the application was filed prior to the issuance of G.O.Ms.No.543, dated 7.10.1994 and the father of the petitioner was retired on 30.6.1994 much prior to the issuance of the above G.O. The learned counsel, therefore, submits that the Tribunal has not concentrated on this aspect and dismissed the OA on the ground that the Government issued GO.Ms.No.543.

4. We have also heard the learned Government Pleader for Services-I for respondent Nos.1 and 2 and the learned Standing Counsel for respondent No.3.

5. The case of the petitioner is required to be considered in accordance with GO.Ms.No.263, dated 31.3.1981. Inasmuch as the retirement of the father of the petitioner took place during the existence of GO.Ms.No.263, an application was also made on 14.7.1994. Under those circumstances the matter has to be considered without reference to GO.Ms.No.543, dated 7.10.1994.

6. Accordingly the order of the Tribunal in the above OA is set aside and the Writ

Petition is disposed of directing the 3rd respondent-Commissioner, Dharmavaram Municipality, Anantapur District to consider the case of the petitioner in accordance with GO.Ms.No.263, dated 31.3.1981 and pass appropriate orders within a period of four (04) weeks from the date of receipt of a copy of this order. No costs.

(G.BIKSHAPATHY, J.)

8th December, 2004.

(P.S.NARAYANA, J.)

SSR

To

1 Secretary. State of AP., Municipal Administration Department, Secretariat Buildings, Hyderabad.
2 The Commissioner and Director of Municipal Administration, AC Guards, Hyderabad.
3 The Commissioner, Dharmavarm, Municipality, Ananthapur District.

4 The Registrar, A.P. Administrative Tribunal, Hyderabad.

5 2CCs to G.P. for Services-I, High Court of A.P. Hyderabad. (OUT).

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